

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSEPH GARCIA, et al.,

No. C 06-00255 CRB

Plaintiffs,

ORDER

v.

BAYSIDE FUNDING GROUP, et al.,

Defendants

Now pending before the Court is the motion to dismiss of defendant Patric Cuspad, sued as Bayside Funding Group. After carefully considering the papers filed by the parties, the Court concludes that oral argument is unnecessary, see Local Rule 7-1(b), and rules as follows:

1. Defendant's motion to dismiss the Third Cause of Action for violation of California Civil Code section 1750 et seq. is GRANTED as plaintiffs did not comply with section 1780(2) regarding the filing of an affidavit. The dismissal, however, is granted with leave to file an amended complaint with which plaintiffs concurrently file the required affidavit.

2. Defendant's motion to dismiss the claim for injunctive relief is DENIED. The Court cannot determine at this stage of the proceedings that plaintiffs lack standing to pursue injunctive relief even if they themselves have no intention of again doing business with

1 defendants. Courts have permitted former employees to obtain injunctive relief that benefits
2 current employees. See, e.g., Jameson v. Five Feet Restaurant, Inc., 107 Cal.App.4th 138
3 (2003). Indeed, some courts have noted that former employees are actually superior
4 representatives. Church v. Consolidated Freightways, Inc., 1991 WL 284083 (N.D. Cal. June
5 14, 1991). The situation alleged here is somewhat analogous as unless plaintiffs have
6 standing to enjoin defendants' unlawful policies (assuming the allegations in the complaint
7 are true), defendants will continue to harm the public. In any event, defendant has not
8 proved as a matter of law that no injunctive relief can be granted in this action.

9 3. Defendant's motion to strike the Fourth and Fifth Causes of Action is
10 DENIED. Defendant is not prejudiced by plaintiffs' pleading their various theories in
11 separate causes of action..

12 **IT IS SO ORDERED.**

13 Dated: July 17, 2006



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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE